

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
DELTA DIVISION

DIANE TRUDDLE et al.,

§

§

VS.

§

**NO. 2:11-cv-00207-GHD-SAA**

§

GENERIC'S BIDCO I, LLC et al.

§

**MOTION TO DISMISS BY DEFENDANTS GENERIC'S BIDCO I, LLC QUALITEST  
PHARMACEUTICALS, INC. AND VINTAGE PHARMACEUTICALS, LLC**

Defendants Generics Bidco I, LLC, Qualitest Pharmaceuticals, Inc., and Vintage Pharmaceuticals, LLC (the "Generic Defendants") respectfully move the Court, pursuant to Rules 8, 9, and 12 of the Federal Rules of Civil Procedure, to dismiss all claims against them in Plaintiffs' Amended Complaint with prejudice in their entirety for failure to state a claim. Plaintiffs bring this state-law products liability action against various branded and generic manufacturers of the prescription medication metoclopramide, including the Generic Defendants. However, the Supreme Court's recent decision in *PLIVA, Inc. v. Mensing*, 131 S. Ct. 2567 (2011), makes clear that the federal law governing generic prescription medications preempts state-law products liability claims such as Plaintiffs' that challenge the product labeling of a generic prescription medication. Plaintiffs cannot save their claims against the Generic Defendants by couching them under any other state-law theory. These and other grounds for this motion are set forth more fully in the accompanying Memorandum of Law.

WHEREFORE, the Generic Defendants respectfully request that the Court dismiss the claims against them in Plaintiffs' Amended Complaint in their entirety, with prejudice.

Dated: October 14, 2011

Respectfully submitted,

By: /s/ Robert D. Gholson

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*Vintage Pharmaceuticals, LLC*

**CERTIFICATE OF SERVICE**

I, Robert D. Gholson, do hereby certify that on the **14<sup>th</sup>** day of **October, 2011**, I served the foregoing via US Mail and/or electronic filing via the Court's ECF system a copy of the above and foregoing document upon the following:

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This the **14<sup>th</sup>** day of **October, 2011**.

/s/ Robert D. Gholson  
ROBERT D. GHOLSON